

SB 131-FN-A - AS INTRODUCED

2025 SESSION

25-1064

05/09

SENATE BILL ***131-FN-A***

AN ACT relative to long-term care eligibility and making an appropriation therefor.

SPONSORS: Sen. Rochefort, Dist 1; Sen. Avard, Dist 12; Sen. Birdsell, Dist 19; Rep. Edwards,
Rock. 31

COMMITTEE: Health and Human Services

ANALYSIS

This bill establishes provisional eligibility for Medicaid nursing facility services as part of the long-term care application process and makes an appropriation to the department of health and human services for this purpose.

Explanation: Matter added to current law appears in ***bold italics***.
Matter removed from current law appears ~~[in brackets and struckthrough.]~~
Matter which is either (a) all new or (b) repealed and reenacted appears in regular type.

STATE OF NEW HAMPSHIRE

In the Year of Our Lord Two Thousand Twenty Five

AN ACT relative to long-term care eligibility and making an appropriation therefor.

Be it Enacted by the Senate and House of Representatives in General Court convened:

1 1 New Paragraphs; Application for Assistance. Amend RSA 167:8 by inserting after paragraph
2 II the following new paragraphs:

3 III. Notwithstanding any other provision of this chapter, within 90 calendar days of the
4 receipt of a long-term care medical assistance application by the department of health and human
5 services, the department shall grant provisional eligibility on his or her application for Medicaid
6 nursing facility services if the facility agrees through contract to comply with the terms of the
7 contract and the provisions of this chapter. Such provisional eligibility shall be made without regard
8 to whether the application is deemed complete.

9 IV. The department shall maintain the applicant's provisional eligibility and make
10 payments for care at the same nursing facility rate as a fully eligible individual, until a
11 determination is made on the individual's application for nursing facility services. Provisional
12 eligibility shall terminate 18 months from the application date unless otherwise terminated as a
13 result of a final determination approving or denying the application or as otherwise provided for in
14 this section. In the event that final approval of the application is not entered within 12 months of
15 the application, the provider of care may, within 45 days, commence an action pursuant to RSA 151-
16 I:2 for the appointment of a special Medicaid representative. If an action is not commenced timely,
17 or if the facility otherwise requests at any time, then provisional eligibility shall terminate.

18 V. The department shall distribute state funds as payments to providers for services
19 rendered to individuals provisionally eligible under this section upon execution of contract approved
20 by governor and council. Once a final determination has been made on an application, any provider
21 who received payments under this section for services rendered for a provisionally eligible individual
22 shall reimburse the department the total amount received for services rendered for that
23 provisionally eligible individual. Any facility who fails to reimburse the department for services
24 rendered shall be subject to sanctions in accordance with the terms of the contract.

25 VI. Notwithstanding any other provision of law, if expenditures for the purposes of this
26 section are greater than the amounts appropriated, the commissioner of the department of health
27 and human services may request, with prior approval of the joint legislative fiscal committee of the
28 general court, that the governor and council authorize additional funding to address the provisional
29 eligibility shortfall. Upon fiscal committee and governor and council approval, the governor is
30 authorized to draw a warrant from any money in the treasury not otherwise appropriated.

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1 2 Appropriation; Provisional Eligibility. The sum of \$1,500,000 is hereby appropriated for the
2 biennium ending June 30, 2027, to the department of health and human services for the purposes of
3 funding provisional eligibility expenses RSA 167:8. The governor is authorized to draw a warrant for
4 said sum out of money in the treasury not otherwise appropriated.

5 3 County Reimbursement of Funds; Limitations on Payments. Amend RSA 167:18-a, I(b) to
6 read as follows:

7 (b) Counties shall not be liable for *provisional eligibility appropriations and/or*
8 *payments as identified in RSA 167:8, and for* Medicaid recipients in state institutions, the
9 Crotched Mountain Rehabilitation Center, and intermediate care facilities (ICF) approved by the
10 department of health and human services and servicing developmentally impaired persons.

11 4 Department of Health and Human Services; Appropriation; Positions Created. There is
12 hereby established in the department of health and human services 2 positions for the purpose of
13 managing the provisional eligibility program in accordance with RSA 167:8. The sum necessary to
14 fund such position for the fiscal year ending June 30, 2026 and the sum necessary to fund such
15 position for the fiscal year ending June 30, 2027, is hereby appropriated to the department of health
16 and human services. The governor is authorized to draw a warrant for said sums out of any money
17 in the treasury otherwise not appropriated.

18 5 Effective Date. This act shall take effect July 1, 2025.

SB 131-FN-A- FISCAL NOTE
 AS INTRODUCED

AN ACT relative to long-term care eligibility and making an appropriation therefor.

FISCAL IMPACT:

| Estimated State Impact | | | | |
|-------------------------------|----------------|----------------|----------------|----------------|
| | FY 2025 | FY 2026 | FY 2027 | FY 2028 |
| Revenue | \$0 | \$0 | \$0 | \$0 |
| <i>Revenue Fund(s)</i> | None | | | |
| Expenditures* | \$0 | \$20,642,000 | \$254,000 | \$264,000 |
| <i>Funding Source(s)</i> | General Fund | | | |
| Appropriations* | \$0 | \$1,742,000 | \$254,000 | \$264,000 |
| <i>Funding Source(s)</i> | General Fund | | | |

***Expenditure = Cost of bill**

***Appropriation = Authorized funding to cover cost of bill**

METHODOLOGY:

This bill establishes provisional eligibility for Medicaid nursing facility services as part of the long-term care application process. The bill makes a general fund appropriation of \$1,500,000 to the Department of Health and Human Services for the biennium ending June 30, 2027 to fund provisional eligibility expenses. The bill also establishes two positions to manage the provisional eligibility program and appropriates the general funds necessary to fund such positions in FY 2026 and FY 2027. In addition, the bill provides open warrant language stating that if expenditures for provisional eligibility are greater than the amounts appropriated, the Commissioner of the Department of Health and Human Services may request, with prior approval of the Joint Legislative Fiscal Committee, that the Governor and council authorize additional funding.

The Department indicates it would pay state dollars to nursing facilities for services rendered to individuals provisionally eligible upon execution of a contract approved by Governor and Council. Once a final determination on the long-term care medical assistance application has been made, nursing facilities, regardless of whether the application was approved or denied, will reimburse the Department for the amount received for services rendered for the applicant that was determined to be provisionally eligible. Any nursing facility that fails to reimburse the Department would be liable for sanctions under the contract.

The Department assumes a nursing facility will be reimbursed its applicable nursing facility rate from the date of application to the date of approval. The Department assumes, since nursing facilities will be liable to reimburse the Department within 90-days after a final determination of applicant's application for long-term care medical assistance, the funds appropriated by the bill would create a revolving fund. Through this revolving fund, the Department would pay nursing facilities for individuals deemed provisionally eligible and then such nursing facilities would reimburse the Department, replenishing the fund, for the total amount paid under the provisional eligibility period.

Over the past year, the Department indicates it was unable to make a determination on approximately 1,400 nursing facility long term care medical assistance applications within 90-days of the application date. This was due to applications being incomplete and missing required documentation from the applicant. If all of the applications that exceed 90-days were granted up to 18 months of provisional eligibility, the provisional eligibility revolving fund would need \$34,000,000 to pay one year of provisional eligibility claims. The Department assumes that not all nursing facilities will contract and elect to receive provisional eligibility for nursing facility long-term care medical assistance applications that exceed 90-days. The Department expects nursing facilities will elect provisional eligibility for approximately 60% of applications eligible for provisional eligibility, reducing the general funds appropriations needed to support the revolving payment structure to approximately \$20,400,000. The Department states the proposed appropriation for \$1,500,000 would not be sufficient to enact the bill.

The Department assumes the two positions established by the bill would be Program Planning and Review Specialists and estimated the cost for these positions would be \$242,000 in FY 2026 \$254,000 in FY 2027 and \$264,000 for FY 2028.

AGENCIES CONTACTED:

Department of Health and Human Services